



**United States Government
NATIONAL LABOR RELATIONS BOARD
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VIA ECF

United States District Court
Southern District of New York
Chambers of Honorable District Court Judge Vincent L. Briccetti
United States Courthouse
300 Quarropas Street, Room 630
White Plains, New York 10601

April 18, 2016

Re: Ley v. Wingate of Dutchess, Inc.
Civil No. 15-CV-3982

LETTER ON STATUS OF PENDING 10(j) PETITION

Dear Judge Briccetti:

This letter is in follow-up to our telephone inquiry to the Court last month, about the status of the above case. On May 22, 2015, this office filed a petition for injunctive relief pursuant to Section 10(j) of the National Labor Relations Act. All filings are complete per the Court's schedule with the last docket activity on February 10, 2016. We recognize that the Court is faced with a heavy docket. We write however, because of the priority nature of this case under 29 U.S.C. Section 1657(a) and the legislative intent behind Section 10(j) of the National Labor Relations Act. *See, Kaynard v. MMCI, Inc.*, 734 F.2d 950, 954 (2d Cir. 1984) (Congress intended Section 10(j) as a "swift interim remedy to halt unfair labor practices"); *See also Hoeber v. IBEW, Local No. 3*, 498 F. Supp. 122 (D.N.J. 1980) (while district court has authority to refer 10(j) petition to a magistrate, court remained cognizant of statutory priority and mandated expedited processing).

Further delay only increases the on-going risk of irreparable harm to the discriminatees, the Union and the public interest. *See Maram v. Universidad Interamericana*, 722 F.2d 953, 960 (1st Cir. 1983) (even if passage of time while case is pending before court may "diminish the curative effect of the relief," an interim injunction would still be more effective to restore the status quo than the Board's ultimate order without interim relief); *Cf. NLRB v. Mastro Plastics Corp.*, 354 F.2d 170, 181 (2d

Cir. 1965), *cert. denied* 384 U.S. 972 (remedial action must be speedy in order to be effective).

Although the Administrative Law Judge's decision has already issued, it is not the final administrative decision of the Board, and the Board's review of exceptions which have been filed by the parties and are now pending before the Board, will entail many more months of administrative litigation. *See, e.g. Schaub v. West Michigan Plumbing & Heating, Inc.*, 250 F.3d 962, 968 (6th Cir. 2001); *Sharp v. Webco Industries, Inc.*, 225 F.3d 1130, 1136 (10th Cir. 2000).

We are most respectful of the Court's discretion in the processing and timing of this case, but given its priority status under Section 10(j), we feel obliged to inquire about the status of the case and again request an expeditious decision and recommended order. Thank you for your courtesies.

Respectfully submitted,

/s/ John Grunert

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